

at any position in the compound. Z and Z' may therefore be absent or may be a terminal group, e.g., the terminal group may be protected. The novelty and non-obviousness of the compound in an RNA should not be dependent on its position in the RNA strand as suggested by the restriction requirement. Considering the explanatory text in the claim, Applicant submits that the requirement for an election of species, especially the election of a species for Z, should be withdrawn.

Applicant provides herewith a copy of the IPER issued in the PCT phase of the instant application. Applicant notes that no lack of unity rejection was made. Further, Applicant submits a copy of the allowed European application along with the claims as filed. Applicant submits that the single inventive concept is the use of LNA in siRNA silencing complexes, that is "a double-stranded compound comprising a sense strand and an antisense strand, wherein each strand comprises 12-35 nucleotides and wherein said compound comprises at least one locked nucleic acid (LNA) monomer having" one of the structures set forth in the claims. As a result, withdrawal of the requirement for further election is respectfully requested.

Applicant cites section 1893.03(d) of the MPEP regarding the Unity of Invention.

Examiners are reminded that unity of invention (not restriction practice pursuant to 37 CFR 1.141 - 1.146) is applicable in international applications (both Chapter I and II) and in national stage applications submitted under 35 U.S.C. 371.

When making a lack of unity of invention requirement, the examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

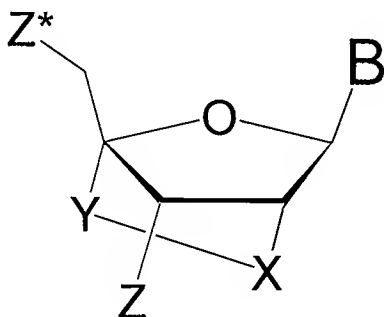
In the absence of art to demonstrate that the various compounds claimed do not provide a single general inventive concept, the restriction cannot be proper in a National Stage Application. A single inventive concept is defined as follows in §1.475:

(a) An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. [emphasis added]

Therefore, in the absence of some art, the base structure, its use in the preparation of a synthetic RNA strand, and its position in the strand should be considered to have unity.

However, to be responsive, Applicant elects the following compound:

The name of the LNA is beta-D-oxy LNA.



β -D-oxy-LNA

wherein the LNA is in the 3' position, Z is a terminal group and Z* is an internucleoside linkage group.

In order to allow for possible rejoinder, Applicant cancels no matter from the claims.

The afore-mentioned election is being made solely to comply with, and be fully responsive to, the restriction requirement set forth in the Office Action. The right to file one or more divisional applications on non-elected subject matter is reserved.

Early and favorable examination is requested.

FEE AUTHORIZATION

The Commissioner is authorized to charge a fee for a two month extension of time for response to the outstanding Office Action Deposit Account, No. 04-1105, Reference 64190(45120), and any additional fees that may be due with this response or any other paper filed by this firm in relation to this application. Any overpayments should be credited to said Deposit Account.

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Customer No. 21874

Respectfully submitted,
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